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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/467,646

12/20/1999

ANTHONY F. HERBST

NEWMRKTP99-4

2648

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07/18/2007

EXAMINER

POINVIL, FRANTZY

ART UNIT

PAPER NUMBER

3692

MAIL DATE

DELIVERY MODE

07/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/467,646	Applicant(s) HERBST ET AL.	
	Examiner Frantzy Poinvil	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/27/2007 has been entered.
2. Applicant's arguments filed 4/27/2007 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman (US Patent No. 6,601,044).

As per claims 1-55, Wallman describes a plurality types of investments in Fig 1, first and second computers col. 9 lines 6-22, in which the investment fund manager executes the trades reflected by the preferences of users (hence a custom set of investment trades) of the investors from the multiple computers in Fig. 1. Further, Wallman teaches an accounting of the investments (col. 8, lines 18-21). Similarly, the SEC and the IRS each requires, by federal

regulation, that investment funds provide an accounting for every investment transaction. Every acquisition transaction within a fund of securities represents acquisition of a set of investments within the fund. Therefore it would have been obvious to one of ordinary skill in the art to note that regulatory compliance(s) would require entering transaction data reflecting the acquisition of sets of investments; and a separate accounting for each set of investments within the fund.

As per the limitation of “connecting the central computer to a brokerage computer system to implement the acquisition of the investments, applicant is directed to column 12, lines 29-33; column 11, lines 45-65 and column 15, lines 30-45 of Wallman.

Wallman thus discloses a system and method for enabling individual investors to create and manage a portfolio of securities on a cost effective basis. The system and method customizing an investment fund for a client by performing the steps of receiving at a central computer first and second digital signals from a first and second computer specifying a custom set of investments for a fund; generating at the central computer, digital signals for acquisition of investments consistent with the first and second digital signals; entering transaction data at the central computer reflecting the acquisition of the investments and outputting a separate accounting for each set of investments within the fund. Note column 11, line 25 to column 18, line 48. The signals include digital signals for acquisition of derivatives, interest-bearing assets. The system also checks for errors and ensures compliance with specific rules. Wallman, however does not explicitly teach periodic rebalancing or automatic reinvesting of client income and client capital gains using the stored client rules. Wallman discloses a client rebalancing and reinvesting in their portfolio. See column 27, lines 29-63 and column 24, lines 1-66. Furthermore, it should be noted that these are well known strategies in the financial art. It would

have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wallman by introducing these well known features to be done in an automatically manner therein in order provide a flexible system whereby a client can use different investment goals and investment strategies so that the client can instantly make readjustments based on the constantly changing market conditions. The system further comprises a client making electronic funds transfer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:00Am to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3692

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Frantzy Poinvil
Primary Examiner
Art Unit 3692

FP
June 30, 2007